



E8 Intimidated or Not Convinced? A Study of Juries and Unexpected Acquittals

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Attendees will gain an insight into the reasons for unexpected acquittals, and an appreciation of the prevalence, forms, and effects of juror intimidation. Attendees will be able to implement these findings into trial practice, and consider means of avoiding acquittals “against the evidence.” Acquittals against the evidence must be avoided as far as is possible, but it is crucial to ensure that the evidence to convict is indeed strong. This presentation will impact the forensic science community by demonstrating how reasons behind unexpected acquittals must be closely examined, and “easy” answers even more closely examined, in order to ensure just outcomes.

Juries will sometimes return verdicts which fly in the face of prosecutorial expectations. Cases which are said to be strong forensically will end with acquittals. Afterwards public recriminations fly, especially where the crimes are gruesome, the victim especially photogenic, or the accused “known high profile organized crime identities”. The media criticises the quality of the prosecution, the defense criticises the fact that the prosecution took place at all, the acquitted give press interviews claiming persecution, and in due course the finger is pointed at the jury: either they were too incompetent to understand the forensic evidence or they were intimidated by the accused. Issues of jury competence in respect of forensic evidence were previously considered, but very little systematic and rigorous work has been carried out internationally in respect of the latter question. Were the jurors intimidated? And if so, just who or what intimidated them, and how? How did it affect the juror(s)? Importantly, did the intimidation affect the verdict? Or were there other reasons contributing to the failure of the prosecution?

Following several celebrated acquittals in Western Australia, and ensuing media and public pressure (informed and otherwise) for the abolition of juries, the author was tasked to examine the extent and nature of jury intimidation in criminal trials in Western Australia. A random and representative sample of almost 5000 jurors from 400 criminal trials held in the Supreme and District courts in Western Australia over the past legal year (2006-2007) were approached to complete a detailed survey, with those who reported some form of intimidation and who were willing, interviewed about their experiences.

The results shed the first light upon failed prosecutions, indicating that the reasons are often more complex than suggested by post-trial reports. The media reports and statements by public figures may be at odds with the self-reports of jurors, and the source of intimidation when it occurs may be different from that suspected.

The true reasons for the “unexpected” acquittals are explored, with sometimes surprising results.

Given the experience of intimidation is not dependent upon the precise nature of the justice system within which it occurs, the data, conclusions and recommendations are of universal application.

Conclusions about the effectiveness of institutional measures designed to reduce the chance of intimidation are drawn, and the effect upon jurors of intimidation, and/or public criticism of their verdicts are drawn.

Lessons for forensic scientists, police and investigators generally, and prosecuting and defense attorneys are drawn from the resulting data. Recommendations are made for procedural and behavioural changes to minimise the prospects of intimidation and of the tainting of verdicts by such malign influences.

Juries, Intimidation, Acquittals